

Preliminary

providing a plurality of traffic shapers, each of the plurality of queues of queues being input to an associated traffic shaper; and

providing a scheduler, the plurality of traffic shapers being input to the scheduler, the scheduler being coupled to said output path;

5 wherein the data switch is an ATM switch.

REMARKS

Claims 4-19, and 21 have been canceled. New claims 22-31 were added. Claims 1-3, 20, and 22-31 are pending after entry of the present Preliminary Amendment.

10 Amendments were made to the claims to improve the readability and better define that which the Applicants regard as the invention. The amendments and the new claims do not add new matter.

The following comments regarding rejected claims are provided in response to the Office Action dated July 21, 2000 in parent Application No. 09/060,228. Please consider 15 these remarks in connection with the Examination of this continuation application.

Rejections under 35 U.S.C. § 102

Claims 1-3, and 20 were rejected under 35 U.S.C. Section 102(e) as being anticipated by Ganmukhi et al. (U.S. Pat. No. 5,850,399). This rejection is respectfully traversed.

20 The Applicants submit that the claimed invention in claims 1-3 are patentably distinct over the cited reference because the identical invention is not shown nor suggested by Ganmukhi. Ganmukhi is directed towards a method of scheduling data transmission packets onto a network where at least one of the first level schedulers sends packets (of data) directly to the third level scheduler. To put it another way, the third

level scheduler of Ganmukhi schedules a combination of both first level and second level scheduler outputs. On the contrary, in the claimed invention, the third level scheduler only “schedules” output from the regulating an aggregate output of cells. In a specific example, as indicated in Figure 1 of Ganmukhi, the third level scheduler receives the 5 CBR output directly from first level scheduler. Moreover, the Examiner is respectfully directed to column 2 lines 42-47 of Ganmukhi which states as follows:

10 “A second level scheduler then schedules the outputs from certain ones of the first level schedulers. A third level scheduler schedules the remaining outputs the first level schedulers with the outputs from the second level scheduler to provide a hierarchical scheduler output.” (Emphasis added.)

15 The Examiner is further referred to claim 1 of Ganmukhi, column 6, lines 32-36 which states in pertinent part:

20 “forwarding packet from the output of said second level scheduler to a first input a third level scheduler, and forwarding packets from the output of at least one of said first level schedulers to a second input of said third level scheduler” (Emphasis added.)

25 The Applicants submit that Ganmukhi clearly teaches the third level scheduler receiving output directly from the first level scheduler as well as from a second level scheduler. In contrast, the claimed invention the third level sorting occurs without use of direct input from the first level sorting. This feature is only one of many of the claimed elements of the various claims which are nowhere taught or suggested by Ganmukhi. Therefore, the Applicants submit that Ganmukhi does not teach all of the elements of the claimed invention either expressly or inherently. Consequently, the claimed invention is patentably distinct over Ganmukhi. The dependent claims 2 and 3 are submitted to be patentable for at least the same reasons the independent claims are patentable over the cited art of record.

Additionally, the Examiner suggests that with regard to claim 20, “Ganmukhi further discloses that the plurality of first level schedulers 20, 40, 50 and the static priority

5 scheduler (90) are equivalent to a plurality of traffic shapers and a scheduler respectively as recited in the claim.” This suggestion is respectfully traversed. The claimed invention as recited by claim 20 is patentably distinct over the cited reference because the identical invention is not shown in Ganmukhi. As with claim 1 above, none of the plurality of sorted queues of queues (after first level sorting) are directly received or “scheduled” by a third level scheduler. Therefore, the Applicants submit that the claimed invention is patentably distinct over Ganmukhi and request that the 102(e) rejection be withdrawn.

10 New claims 22-31 have been added which further defines that which the Applicants consider to be the invention. Claims 22-31 clarify the scheduling operation of regulating an aggregate output of cells from each sorted queue of queues. These new claims do not add new matter and the Applicants respectfully submit that these claims are allowable.

15 The Applicants respectfully request examination on the merits of the subject application, and respectfully submit that all of the pending claims are in condition for allowance. Accordingly, a notice of allowance is respectfully requested. If the Examiner has any questions concerning the present amendment, the Examiner is kindly requested to contact the undersigned at (408) 749-6900. If any additional fees are due in connection with filing this amendment, the Commissioner is also authorized to charge Deposit Account No. 50-0805 (Order No. COREP005A).

20 Respectfully submitted,
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